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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,389	05/24/2007	Shingo Okamoto	060659	9276
	7590 04/08/201 'TOS & HANSON, LL	EXAMINER		
1420 K Street, 1		MOWLA, GOLAM		
4th Floor WASHINGTO	N, DC 20005		ART UNIT	PAPER NUMBER
			1723	_
			MAIL DATE	DELIVERY MODE
			04/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/594,389	OKAMOTO ET AL.		
Examiner	Art Unit		
GOLAM MOWLA	1723		

The MAIL/INC DATE of this communication appears on the cover sheet with the correspondence address THE REPLY ELED 17 Manch 2011 FAILS TO PLACE THIS APPLICATION IN CONJUNTON FOR ALL OWANCE.  1. ☑ The reply was filled after a final rejection, but prior to or on the same day as tilling a Notice of Appeal. To avoid abandonment of the state of the prior of the same day as tilling a Notice of Appeal and the substance of the state of the same day as tilling a Notice of Appeal and the substance of the same day as tilling a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31: or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 11.114. The reply must be filled within one of the following time periods:  □ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, with the statutory period for reply expire test man SIM MONTHS from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TWO		GOLAM MOWLA	1723						
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandomment of this application, applicant must timely file one of the following replies; (f) a manendment, affadiati, control replaces, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31, or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.1.14. The reply must be filed within one of the following time periods:  a) ☑ The period for reply exprise 3 months from the mailing date of the final rejection.  b) ☐ The period for reply exprise 3. months from the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check either box (a) or (b) CNLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 766 or (7).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the exprision date of the sharp prior dor reply originally set in the final Office action, or (2) as may reduce any example part of the date for purposes of determining the period of the sharp prior dor reply originally set in the final Office action; or (2) as may reduce any example part term all might all the thing and the date of lifting the Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137 must be filed within two months of the date of lifting the Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137(e), to avoid dismissal of the appeal. Since a Notice of Appeal was suses that would require further consideration and/or search (see NOTE below);  (b) ☐ They raise the issue of new matter (see NOTE below).  (c) ☐ They raise the issue of new matter (see NOTE below).  (b) ☐ They praise new issues that would require further consideration and particle of Non-Compliant Amendment (PTCL-324). The Notic	The MAILING DATE of this communication appe	ars on the cover sheet with the c	correspondence add	ress					
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Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.17(a) is calculated from: (1) the expiration date of extension and the corresponding amount of the few chree ander 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filled, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL.  2. The Notice of Appeal was filled on	<ol> <li>The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</li> <li>a) The period for reply expires 3 months from the mailing date of the final rejection.</li> <li>b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</li> </ol>								
have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 11.7(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).  NOTICE OF APPEAL  2. □ The Notice of Appeal was filed on, A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3. □ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) □ They raise new issues that would require further consideration and/or search (see NOTE below); (b) □ They raise the issue of new matter (see NOTE below); (c) □ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) □ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.116 and 41.33(a)).  4. □ The amendments are not in compliance with 37 CFR 1.12. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. □ Applicant's reply has overcome the following rejection(s):			100/-1						
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  AMENDMENTS  3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: (See 37 CFR 1.16 and 41.33(a)).  4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  5. Applicant's reply has overcome the following rejection(s): would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  6. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:	have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).								
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how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected: 1-5.9,10 and 13.  Claim(s) withdrawn from consideration: 6-8,11 and 12.  AFFIDAVIT OR OTHER EVIDENCE  8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  See Continuation Sheet.  12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  //Alexa D. Neckel/	non-allowable claim(s).	·		_					
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Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues that figure 9 depicts a conventional manufacturing step diagram of a solar battery and the term "conventional" is not same as the term "prior art" (see Remarks).

The Examiner respectfully disagrees. When the specification's background of the invention describes information as being known or conventional, the information can be considered as an admission of prior art (MPEP § 704.11 (b) I (F)) (see also MPEP § 2129).

In addition, Examiner also notes that the invention depected in figure 9 and descirbed in the background section is definitely "prior art" disregarding the applicant labels it as "Prior Art" or not, because only that which is old illustrated in figure 9 and described in the Background section. Therefore, fig. 9 is prior art. See MPEP 608.02(g).

Applicant further argued that an inventor's own foundational work should not be treated as a prior art solely because knowledge of this work is admitted.

The Examiner respectfully disagrees. Instant specification fails to explicitly specify that figure 9 depicts inventors own foundational work. On the contrary, Applicant explicitly states that figure 9 depicts a conventional manufacturing step diagram of a solar battery, which implies such manufacturing process is in general known to public (MPEP § 704.11 (b) I (F)), and therefore, the rejection is maintained.